IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr.A. No.749/2000

Reserved on.28.11.2007

Decided on. 7.12.2007.

State of H.P. **…appellant.**

Versus

Madan Lal alias Longu Ram and others. **…Respondents**

Coram

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting ?[1]*.* *No.*

For the appellant	**:**	**Mr. M.A. Khan and Ms. Meenakashi Sharma, Deputy Advocate Generals.**
For the respondents-accused	**:**	**Mr. N.K. Thakur, Advocate for respondent No.1.**
		Mr. Sanjeev Sharma, Advocate for respondents No.2 and 3.

Rajiv Sharma, J.

The respondents were accused in Criminal Case No.13/2 of 1999 and they were prosecuted under sections 323, 324, 325, 405 and 506 read with section 34 of the Indian Penal Code in the Court of Judicial Magistrate Ist Class, Bilaspur, H.P. and were acquitted on 19.5.2000. The State has filed the appeal against the acquittal of the respondents.

The prosecution case in nutshell is that the complainant was running a shop of fertilizer at village Beri near School Dasgaon. On 30th December, 1998 about 9.00 P.M. the complainant, Hari Om Dutt was sitting with his son and daughter in his house which is situated at the back side of his shop. In the meantime accused Madan Lal alias Longu Ram came and started pelting stones on the shutter of the shop of the

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgment***? No.

complainant. The complainant sustained injury on his left shoulder and elbow. According to the prosecution two other boys came there, who are residing at Beri Rajadayan and taken the accused Madan Lal alias Longu Ram with them. The complainant had reported the matter to the police vide rapat Ex.PW-8/A, which resulted in registration of FIR Ex.PW-9/A against the respondents. After consideration charge for the offences was framed against the respondents, to which they pleaded not guilty and thereafter they were examined under section 313 of the Code of Criminal Procedure.

The prosecution in all examined 11 witnesses to prove the case. The trial court acquitted the respondents on 19th May, 2000, hence, the appeal by the State.

The learned Deputy Advocate General had strenuously argued that the prosecution has proved the case. According to him, the court below has not appreciated the evidence led by the prosecution and acquitted the respondents.

The learned counsel appearing on behalf of the respondents have supported the judgment dated 19.5.2000.

I have heard the learned counsel for the parties and perused the record meticulously.

The accident is dated 30th December, 1998 at about 9.00 P.M. The prosecution had examined as many as 11 witnesses to prove the case. As per Ex.PW-8/A only the name of respondent No.1 was stated, however, while the complainant appeared in the Court as witness he had testified that respondents No.2 and 3 were also involved in the commission of offence. This discredits the version of the complainant Sh. Hari Om Dutt. PW-2 Sh. Tilak Raj is the brother of the complainant and PW-3 Ajay Kumar is his son. They are interested witnesses of the case.

The complainant had admitted himself that in the vicinity of his shop about 30-40 shops are situated and though 10-15 persons had assembled at the time of occurrence, but none of them had been examined and cited by the prosecution as witness. PW-3, Ajay Kumar, the complainant's son had admitted that they had strained relations with the accused No.1 i.e. Madan Lal. No doubt, the complainant had received injuries but the same cannot be attributed to be caused by the respondents in the evidence of cogent evidence.

The prosecution has failed to prove that the respondents/accused persons had caused injuries to the complainant. The learned Judicial Magistrate 1st Class, Bilaspur has rightly appreciated the material on record and acquitted the respondents. No case is made out for interference.

The result of the above discussion is that the appeal fails and the same is dismissed. The bail bonds furnished by the respondents-accused are discharged.

December 7, 2007. **(Rajiv Sharma), Judge**
Awasthi